

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

- 1] C.A.NO.4773/06 IN F.A.(ST) NO.14608/06,
 - 2] C.A.NO.4775/06 IN F.A.(ST) NO.14618/06,
 - 3] C.A.NO.4777/06 IN F.A.(ST) NO.14622/06,
 - 4] C.A.NO.4779/06 IN F.A.(ST) NO.14686/06,
 - 5] C.A.NO.4781/06 IN F.A.(ST) NO.14689/06
- AND
- 6] C.A.NO.4783/06 IN F.A.(ST) NO.14826/06

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Office notes, office
memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders.
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Court's or Judge's orders.

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Mrs G.P.Mulekar, A.G.P for the Applicant.
Shri S.G.Surana for the Respondent.

CORAM : ABHAY S.OKA, J.
DATED : 19th December, 2007.

P.C.:

1. Heard advocate appearing for the applicant and advocate for the respondent. The challenge in the Appeal is to the judgment and award in a reference under section 28-A(3) of the Land Acquisition Act, 1894. The acquisition relates to a land at village Kamothe, Taluka Panvel, District Raigad. The notification under section 4 of the said Act was issued on 03rd February, 1970 notifying the land for public purpose of setting up of the satellite city of Navi Mumbai. It is not in dispute that in case of similarly situated lands in same village, which were notified for acquisition under the same notification dated 03rd February,

1970 a Division Bench of this Court in the case of Nama Padu Hudar and others Vs. State of Maharashtra (In First Appeal No.754 of 1986 and other connected matters) has fixed the market value at the rate of Rs.23/- per sq meter. It is also not in dispute that the decision of the Division Bench has attained finality in the sense that neither the State of Maharashtra nor the acquiring body has challenged the said decision which was rendered in the year 1993. In the present case market value at the rate of Rs.22/- per sq meter has been awarded by the reference Court.

2. The appeal cannot be finally disposed of as an appeal arising out of the award made on the basis of which an application under section 28-A(1) was filed by the respondents is pending in this Court for final hearing. However, considering the aforesaid decision of the Division Bench, it is obvious that the compensation at the rate of Rs.22/- per sq meter awarded by the reference Court by the impugned judgment and award is certainly in conformity with the decision of the Division Bench.

3. Hence, there is no case is made out for grant of stay. The reference Court will permit the

claimants to withdraw the compensation amount in terms of award subject to filing an undertaking to re-deposit the entire amount with appropriate rate of interest in case the applicant State of Maharashtra succeeds in the appeal.

JUDGE